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PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Sully
3/4/03

In re application of

Docket No: Q64774

Andrew Victor Graham MUIR, et al.

Appln. No.: 09/857,845

Group Art Unit: 1713

Confirmation No.: 2482

Examiner: Fred Zitomer

Filed: June 11, 2001

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For: **CROSSLINKED POLYMERS AND REFRACTIVE DEVICES FORMED THEREFROM****RESPONSE TO RESTRICTION AND ELECTION OF SPECIES REQUIREMENT**Commissioner for Patents
Washington, D.C. 20231

Sir:

This is responsive to the Restriction Requirement and Election of Species Requirement dated January 24, 2003.

Applicants elect Group I (Claims 33-43) with traverse. It is asserted that the special technical feature does not define a contribution over the prior art. U.S. Patent No. 5,648,442 to Bowers *et al.* and U.S. Patent No. 5,270,415 to Sulc *et al.* are referred to in support of this assertion. However, the restriction and election of species requirement have not been justified by reference to any particular disclosure in either of those references. The present claims require three components, namely a) a zwitterionic monomer, b) an aromatic group containing monomer and c) a crosslinking monomer. This combination confers a desirable combination of properties of strength and high refractive index. Both Bowers *et al.* and Sulc *et al.* disclose crosslinked polymers formed of zwitterionic monomer falling within the definition of the general formula I, that is comprising component a). Furthermore, Sulc and Bowers each disclose a crosslinking

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monomer falling within the general formula III (although such a monomer is non-essential in both citations) (*i.e.*, component c)). Sulc *et al.*, however, has no disclosure of any aromatic group containing monomers as required by feature b). The general description of nonionic monomers to be incorporated into Sulc's polymers, and the specific examples thereof used in the worked examples, have an aliphatic group at the position corresponding to R⁴.

Bowers does disclosure polymers formed from zwitterionic monomers in combination with monomers which may fall within the definition of monomers of type c). Bowers also describes a wide range of other polymer types which have no monomer corresponding to monomer c). Within polymers which have monomers c), there is no disclosure of other monomers falling within the definition of b). While all Bowers' polymers may comprise a diluent monomer, there are no examples of diluent monomers which have an aromatic group corresponding to R⁴.

In conclusion, the presence of the aromatic group containing monomer of the general formula II is a special technical feature which distinguishes all of the claims from the prior art. Furthermore, this monomer confers the desirable mechanical and refractive index characteristics on the polymer. Since all of the groups identified in the restriction and election of species requirement include this essential technical feature, they all form part of the inventive concept and should remain in the same application.

The elected polymer is one in which:

- a) is 2-methacryloyloxyethyl-2-trimethylammoniummethyl phosphate inner salt (HEMA-PC).

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- b) is benzylacrylate.
- c) is a mixture of two compounds namely bisphenol A dimethacrylate (BADMA) and ethyleneglycol dimethacrylate (EGDMA).

Applicants submit that all of the claims read on the elected species.

Examination of the application on the merits is requested.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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WASHINGTON OFFICE



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